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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

COTTON 303, LLC,

Debtor.

Case No.: BK-S-10-20380-BAM
 Chapter 11

NEGATIVE NOTICE
 No Hearing Required Unless Opposed

**STIPULATION PURSUANT TO FED. R.
 BANKR. P. 4001(d); REQUEST FOR
 APPROVAL ON NEGATIVE NOTICE**

This stipulation (the "Stipulation") is made pursuant to Fed. R. Bankr. P. 4001(d) by and between Secured Creditor, City National Bank ("CNB"), by and through its counsel, James Patrick Shea, Esq. and Tracy M. O'Steen, Esq., of the law firm of Shea & Carlyon, Ltd.; the Debtor, Cotton 303, LLC ("Debtor"); and Ray Koroghli, Hamid Mahban, The Koroghli Family Trust, The Mahban Family Trust, TRG Trust, and 303 Investors, LLC (collectively, the "Guarantors"), by and through its counsel, Terry Leavitt, Esq., of the law firm of Graves & Leavitt, and is made with respect to the following facts:

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RECITALS

A. On October 1, 2007, CNB made a loan to ("Debtor") in the original principal amount of \$4,905,946.00 (the "Loan"). The Loan was made pursuant to a Land Loan Agreement, dated October 1, 2007 (the "Loan Agreement"), and was evidenced by a promissory note of the same date (the "Note"). True and correct copies of the Loan Agreement and Note are attached hereto as **Exhibit "1"** and **Exhibit "2"**, respectively.

B. Pursuant to the terms of the Note, the Debtor was to re-pay the Loan with monthly interest payments beginning on the first day of the calendar month in which the Note was executed and continuing on the first day of each successive calendar month thereafter, with the full amount being due within twelve (12) months after the date of the Note (the "Maturity Date").

C. The Note is secured by a first priority deed of trust on the real property situated in Maricopa County, Arizona, (the "Property"), in favor of CNB and dated October 1, 2007 (the "Deed of Trust"). The Deed of Trust was recorded with the Maricopa County Recorder on October 29, 2007 as Book/Instrument No. 20071169228. A true and correct copy of the Deed of Trust is attached hereto as **Exhibit "3"**.

D. On November 3, 2008, Debtor executed a Loan Revision Agreement ("Revision Agreement #1"), which, *inter alia*, extended the Maturity Date from October 1, 2008 to January 15, 2009. On February 13, 2009, Debtor executed a second Loan Revision Agreement ("Revision Agreement #2"), which, *inter alia*, extended the maturity date from January 15, 2009 to January 15, 2010. True and correct copies of Revision Agreement #1 and Revision Agreement #2 are attached hereto as **Exhibit "4"** and **Exhibit "5"**, respectively.

E. Debtor filed for bankruptcy protection before this Court on June 3, 2010 (the

1 "Petition Date").

2 F. As of the Petition Date, the Debtor was indebted to CNB under the Note in the
3 amount of \$4,880,181.38, consisting of principal in the amount of \$4,731,500.55 and accrued
4 unpaid interest in the amount of \$148,680.83, exclusive of attorneys' fees and additional post-
5 petition unpaid interest.

6
7 G. The Property consists of unimproved real property traditionally used for rose
8 farming in Arizona. The Property generates minimal annual rental income from farming leases
9 and for billboard rentals.

10 H. The Debtor and CNB acknowledge that the rental income generated from the
11 Property constitutes "cash collateral" as that term is defined in 11 U.S.C. § 363(a), and that the
12 Debtor is prohibited under § 363(c)(2) from using such funds absent consent from CNB and/or
13 an order of the Court authorizing the use of such funds.

14
15 I. CNB and Debtor recognize that the upkeep of the Property will assist in
16 procuring a timely sale, the parties' ultimate goal, and result in a net benefit to the estate. To
17 that end, Debtor and CNB desire to enter into this agreement to provide for the limited use of
18 CNB's cash collateral on an interim basis, to provide for adequate protection payments to be
19 made to CNB, and to stipulate to relief from the automatic stay.

20
21 J. The Debtor's bankruptcy case has been pending for nine (9) months. The
22 parties wish to resolve pending issues without resorting to the filing of a plan.

23 K. Pursuant to Fed. R. Bankr. P. Rule 4001(d)(2), the parties jointly request
24 approval of this Stipulation on 15 days "negative notice" as set forth in the form Order attached
25 hereto as **Exhibit "6"**.

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STIPULATION

1
2 1. The parties to this Stipulation hereby acknowledge the accuracy and incorporate
3 herein the information contained in the foregoing recitals and the amounts owed to CNB as of
4 the Petition Date as set forth therein.

5
6 2. The Debtor shall pay to CNB, immediately following the execution of this
7 Stipulation and on the same day of each month after that, monthly interest only payments on
8 the Note, at the non-default rate, in the amount of \$18,300.00.

9
10 3. On or before December 1, 2011, the Debtor shall repay the balance due under
11 the Note in full.

12 4. Debtor will continue to market the Property for sale and share the details of all
13 such marketing efforts with CNB.

14 5. The Debtor will not pledge, sign, transfer, sell or encumber any assets which
15 constitute CNB's collateral without the prior written consent of CNB.

16 6. Upon approval of this Stipulation, the automatic stay provision of 11 U.S.C. §
17 362 shall be vacated; however CNB will refrain from enforcing its rights and remedies absent
18 an uncured breach as set forth herein.

19
20 7. CNB retains any and all rights and remedies with respect to the personal
21 guarantors of the Note, including all rights and remedies under any of its Loan Documents.
22 CNB shall forbear from exercising any of its rights against the personal guarantors of the
23 herein described Note only, so long as no default of this Stipulation occurs. Should a default
24 occur, CNB may pursue an action against the personal guarantors.

1 8. The Debtor shall keep all expenses associated with the Property current,
2 including, but not limited to, insurance and real property taxes, and remains solely responsible
3 for the same.

4 9. The Debtor shall not utilize cash collateral except as provided for herein. To the
5 extent that the cash collateral is not sufficient to pay the expenses associated with the upkeep
6 of the Property as provided herein, the Debtor is responsible for all such expenses. All
7 remaining cash collateral of CNB, after property upkeep expenses as provided for herein, shall
8 be paid to CNB to reduce the outstanding obligation under the Note.

9 10. The Debtor shall maintain continuous insurance on the Property at the levels
10 required by the loan documents, naming CNB as loss payee, and shall provide proof of
11 insurance to CNB and its counsel within three (3) business days of any request. The Debtor
12 may use CNB's cash collateral to pay the property insurance premium.

13 11. The Debtor shall pay all real property taxes and discharge promptly any other
14 amounts which could become a lien upon the Property. The Debtor may use CNB's cash
15 collateral to pay the real property taxes of the Property.

16 12. The Debtor will (i) provide monthly accounting to CNB of cash collateral
17 collected and spent, (ii) send CNB monthly bank statements, (iii) comply with non-monetary
18 terms of the loan documents; and (iv) provide any of the documents necessary to determine
19 Debtor's compliance with this Stipulation.

20 13. The Debtor may pay to CNB within six (6) months of the signing of this
21 stipulation a lump sum payment to principal in the amount of \$150,000.00. The Debtor may
22 make a second payment to CNB on or before December 1, 2011 a lump sum principal payment
23 in the amount of \$100,000.00. In return for both aforementioned payments the Debtor shall

1 have one, and only one, additional year in which to repay the balance due under the Note in full
 2 as referenced in Paragraph 3, so long as the monthly \$18,300.00 interest only payments are
 3 continued to be made as stated in Paragraph 2 during that additional period and all other terms
 4 of this Stipulation are complied with. If the conditions of this paragraph are complied with, the
 5 Debtor shall have until December 1, 2012 to repay the balance owed under the Note.
 6

7 14. Pursuant to 11 U.S.C. §§ 363(b)(2) and 552(b), CNB is granted a post-petition
 8 replacement lien in all collateral (including cash collateral) and all proceeds of the cash
 9 collateral (including, but not limited to, accessions and replacements), whether acquired prior
 10 to or subsequent to the Petition Date ("Post-Petition Replacement Lien"). The Post-Petition
 11 Replacement Lien shall have the same priority and status as CNB's pre-petition liens and
 12 encumbrances.
 13

14 15. The Post-Petition Replacement Lien shall be perfected and enforceable upon
 15 entry of an order approving this Stipulation without the necessity of filing or recording any
 16 additional documents. To the extent that the above Post-Petition Replacement Lien provided to
 17 CNB proves to be inadequate, CNB shall have an administrative claim as provided for by 11
 18 U.S.C. § 507(b).
 19

20 16. The following shall constitute a default under this Stipulation:

21 a. The failure to maintain adequate insurance on the Property, as well as all
 22 other insurance required by applicable law, or to pay applicable property taxes;

23 b. The failure to pay the monthly interest only payments as set forth herein.
 24 If any tendered payment is dishonored, all future payments must be made by wire transfer or
 25 cashier's check.
 26

c. The failure to pay off the balance due under the Note on or before December 1, 2011.

d. The breach of any other obligation or covenant hereunder;

e. The use of cash collateral in a manner not provided for by this Stipulation; and

f. The dismissal of this case for cause.

17. If a default occurs hereunder, CNB shall cause to be transmitted a Notice of Default to Debtor's counsel (which may be given by facsimile transmission). If the default is cured within ten (10) business days of the transmission of the Notice of Default, CNB will refrain from foreclosing as a result of that default. No notice is required to be given to the Debtor if there is a third default or if the Loan is not paid on or before December 1, 2011, except as set forth above. Upon default, CNB may enforce the provisions of this Stipulation without further order of the Court. Any cure shall include a payment of \$150.00, in addition to any other sums due, and for partial payment of creditor's attorneys' fees for preparation and transmission of the Notice of Default.

18. If a default occurs hereunder, which is not timely cured after the Notice of Default or is the third default following the service of two previous Notices of Default, CNB shall be entitled to the following relief:

a. The automatic stay of 11 U.S.C. § 362 shall lift without further order of the Bankruptcy Court, and CNB shall be entitled to complete foreclosure or take any other action under Nevada law as to its collateral without further order of the Bankruptcy Court, State Court or any other Tribunal. (At CNB's option it may submit an *Ex Parte* Order with a copy to Debtor's Counsel). Such foreclosure shall be deemed a foreclosure as to all of CNB's

1 collateral, whether granted prepetition or in connection with this Stipulation, and this
 2 Stipulation shall constitute notice of foreclosure so long as the foreclosure sale as to the
 3 Property collateral is sufficiently noticed pursuant to applicable nonbankruptcy law;

4 b. The Debtor shall be prohibited from utilizing cash collateral except, if
 5 approved by the Court or CNB, for payment of only such expenses that are necessary for
 6 preservation and improvement of the property.

8 19. The Debtor hereby releases and forever discharges CNB and its related entities,
 9 employees, officers, agents, successors, assigns, sureties and insurers from any and all claims,
 10 demands, causes of action and liabilities whether at law or in equity, known or unknown, past,
 11 present or future, asserted or unasserted, and from any and all damages whether direct, indirect,
 12 consequential, liquidated or unliquidated, including, but not limited to, those that in any way
 13 arise from or out of, are connected with, or relate to the Loan and any and all documents
 14 related thereto.

16 20. The Debtor acknowledges the validity of the Loan Documents and the Debtor's
 17 obligations thereunder. The Debtor hereby waives any defenses which it may have against
 18 CNB arising from its obligations under the Loan Documents.

20 21. This Stipulation may be modified only through a written modification signed by
 21 all parties hereto and approved by order of the Bankruptcy Court.

22 22. Except as specifically provided herein, nothing contained in this Stipulation
 23 shall be construed as a waiver of any rights held by CNB under its loan documents or under
 24 applicable bankruptcy or non-bankruptcy law.

25 23. This Stipulation shall be immediately effective upon the entry of a Bankruptcy
 26 Court order approving the same.

1 24. This Stipulation may be executed in counterparts, and a copy, facsimile, or other
2 reproduction of any party's signature shall be valid as if an original.

3 25. The Debtor shall cause a copy of this Stipulation along with the Debtor's
4 Motion to Approve to be served upon the parties as required by Fed. R. Bankr. P. 4001(d)(1)
5 within three (3) business days from the date of this stipulation.
6

7 26. All parties hereto are deemed to have actively participated in the drafting of this
8 Stipulation. In the event of a future dispute over the terms of this Stipulation, the Stipulation
9 shall not be construed against any one party on the ground that such party was the "drafter" of
10 the Stipulation.

11 27. Each party signing this Stipulation warrants that they have authority to do so.

12 28. It is the Debtor's intention upon entry of an order approving this stipulation to
13 go forward with a Motion to Dismiss the Chapter 11 bankruptcy case. CNB hereby agrees to
14 not oppose the Debtor's Motion to Dismiss, and the terms of this Stipulation shall survive the
15 dismissal.
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29. Within fifteen (15) days of this Stipulation being executed by the below parties, the Debtor shall take such necessary action with the Court to obtain the Court's approval of the terms and conditions contained in this Stipulation.

DATED this ___ day of March, 2011.

DATED this ___ day of March, 2011.

SHEA & CARLYON, LTD.

GRAVES & LEAVITT

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Counsel for CNB

RAY KOROGHLI

HAMID MAHBAN

THE KOROGHLI FAMILY TRUST
DATED APRIL 7, 1997

THE MAHBAN FAMILY TRUST
DATED JULY 14, 2005

TRG TRUST DATED AUGUST 10, 2005

see attached
303 INVESTORS, LLC

29 Within fifteen (15) days of this Stipulation being executed by the below parties,
the Debtor shall take such necessary action with the Court to obtain the Court's approval of the
terms and conditions contained in this Stipulation

DATED this ____ day of March, 2011 DATED this ____ day of March, 2011

SHELA & CARLYON, LTD

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702



HAMID MAHBAN


RAY KOROGHLI
FEB. KOROGHLI FAMILY TRUST
DATED APRIL 7, 1997

703


THE MAHBAN FAMILY TRUST
DATED JULY 14, 2005


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303 INVESTORS, LLC